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13 LENNOX HEARTH PRODUCTS INC.; LENNOX
14 INTERNATIONAL INC.

15 UNITED STATES DISTRICT COURT
16
17 NORTHERN DISTRICT OF CALIFORNIA

18 KIRK KEILHOLTZ and KOLLEEN
19 KEILHOLTZ for themselves and on behalf
20 of those similarly situated,

21 Plaintiffs,

22 v.

23 LENNOX HEARTH PRODUCTS INC.;
24 LENNOX INTERNATIONAL INC. and
25 DOES 1 through 25, Inclusive,

26 Defendants.

Case No. 4:08-cv-00836-CW (JCS)

**STIPULATION AND ORDER SETTING
NEW BRIEFING AND HEARING
SCHEDULE ON CLASS CERTIFICATION
MOTION**

27 TO THE COURT AND ALL ATTORNEYS OF RECORD:

28 By and through their counsel of record, Defendants Lennox Hearth Products Inc. and
Lennox International Inc. ("Defendants"), and Plaintiffs Kirk Keilholtz and Kolleen Keilholtz
("Plaintiffs"), hereby stipulate as follows:

1. At the Status (Pre-Trial Scheduling) Conference conducted on May 14, 2009, and
as confirmed in the Minute Order issued on May 21, 2009, the court ordered that any hearing on
class certification and subject matter jurisdiction issues would be conducted on Thursday,
October 8, 2009, at 2:00 p.m. The court ordered the following briefing schedule to address these
issues:

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Party	Filing	Deadline
Plaintiffs	Motion for Class Certification	July 31, 2009
Defendants	Opposition to Motion for Class Certification and Cross-Motion Addressing Class Certification and Subject Matter Jurisdiction ("Cross-Motion")	August 28, 2009
Plaintiffs	Reply in Support of Motion for Certification and Opposition to Cross-Motion	September 11, 2009
Defendants	Surreply	September 25, 2009

2. Plaintiffs and Defendants have agreed, and hereby stipulate, to extend the hearing date and briefing schedule on the Motion for Class Certification and Cross-Motion by approximately one month. Specifically, the stipulation proposes that the court, subject to its availability, reschedule the hearing on the Motion for Class Certification and Cross-Motion for Thursday, November 12, 2009, at 2:00 p.m., with the following revised briefing schedule:

Party	Filing	Deadline
Plaintiffs	Motion for Class Certification	August 28, 2009
Defendants	Opposition to Motion for Class Certification and Cross-Motion	September 28, 2009
Plaintiffs	Reply in Support of Motion for Certification and Opposition to Cross-Motion	October 12, 2009
Defendants	Surreply	October 26, 2009

3. Defendants requested this extension after discussion of defense scheduling conflicts. Specifically, Defendants advised Plaintiffs that lead defense counsel, William Warne, will begin a four-week jury trial in Stanislaus Superior court on August 4, 2009 which will greatly impact his ability to participate in the briefing on the Motion for Class Certification and Counter-Motion. In addition, Defendants will file (on July 9, 2009), a motion to dismiss Plaintiffs' Second Amended Complaint. Under the current briefing schedule, this motion would not be resolved until after Plaintiffs are required to file their Motion for Class Certification. Finally, the brief

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2 extension will facilitate the parties' efforts to informally resolve discovery issues which may
3 impact certification briefing.

4 4. Defendants note that their counsel Megan Baker, who will participate significantly
5 in Defendants' class action briefing, will be unavailable due to maternity leave from October 30,
6 2009, through March 1, 2010.

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8 **IT IS HEREBY STIPULATED:**

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10 DATED: July 10, 2009

DOWNEY BRAND LLP

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12 By: /s/ Meghan M. Baker

13 MEGHAN M. BAKER
14 Attorney for Defendants
LENNOX HEARTH PRODUCTS INC. and
LENNOX INTERNATIONAL INC.

15
16 DATED: July 10, 2009

ARNOLD LAW FIRM

17
18 By: /s/ Kirk J. Wolden (as authorized on 7/9/2009)

19 KIRK J. WOLDEN
20 Attorney for Plaintiffs
KIRK KEILHOLTZ and KOLLEEN
21 KEILHOLTZ for themselves and on behalf of
22 those similarly situated
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IT IS SO ORDERED:

The court, having considered the Stipulation of the parties and good cause appearing, hereby orders that the Motion for Class Certification and Cross-Motion be heard on Thursday, November 12, 2009, at 2:00 p.m. in Courtroom 2, before the Honorable Claudia Wilken. The court hereby orders the following briefing schedule on the Motion for Class Certification and Cross-Motion:

Party	Filing	Deadline
Plaintiffs	Motion for Class Certification	August 28, 2009
Defendants	Opposition to Motion for Class Certification; Cross-Motion on Class Certification and Subject Matter Jurisdiction ("Cross-Motion")	September 28, 2009
Plaintiffs	Reply in Support of Motion for Certification and Opposition to Cross-Motion	October 12, 2009
Defendants	Surreply	October 26, 2009

7/21/09

Dated: _____

By: _____


HONORABLE CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE,
NORTHERN DISTRICT OF CALIFORNIA